

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 362 – SB 295

May 2, 2017

SUMMARY OF ORIGINAL BILL: Prohibits the Department of Environment and Conservation (TDEC) from issuing permits that have not been reviewed by the General Assembly under the Uniform Administrative Procedures Act.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENT (008326): Deletes all language after the enacting clause. Requires TDEC to promulgate rules that include the proposed permit for review under the Uniform Administrative Procedures Act upon the development of any proposed national pollutant discharge elimination system (NPDES) to a municipal separate storm sewer system operated by local government entities. Requires the review to include, but not be limited to, an assessment of the financial impact of the post water construction storm water requirements on the local government entity and persons required to comply with the post construction storm water NPDES permit requirements. Prohibits TDEC from issuing a NPDES permit to a municipal separate storm sewer system operated by local government entities until the promulgated rules have been continued under the Uniform Administrative Procedures Act.

Requires the Government Operations Committees of the Senate and House of Representatives to make recommendations to the General Assembly to ensure that requirements for permanent storm water measures do not exceed federal law minimum requirements. Requires TDEC to consult with local government entities and the Home Builders Association of Tennessee to determine the financial impact of the new NPDES permits. Requires TDEC to work within the department's current year budget and personnel without placing any undue burdens on the local government entities to obtain financial impacts of such permits.

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FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

**Increase State Expenditures - \$94,200/General Fund
\$130,000/Environmental Protection Fund**

Other Fiscal Impact - A potential mandatory increase in local government expenditures; the extent and timing of any such expenditures cannot be determined because such impacts are dependent upon several unknown factors.*

Assumptions for the bill as amended:

- The proposed legislation as amended requires TDEC to promulgate rules for the review of proposed NPDES permits and assess the financial impact of the post construction storm water requirements on local government entities and persons required to comply with such permits.
- According to TDEC, economic modeling will have to be performed in order to create the financial impact assessment. Based on information provided by TDEC, it is assumed that the department will require assistance from a consulting firm which is estimated to result in a recurring increase in state expenditures of \$150,000.
- TDEC indicates that the Department will require one Policy Analyst position to serve as a liaison to the consultant, local governments, and regulated entities and to assist with the financial impact assessments.
- The recurring increase in state expenditures is estimated to be \$74,219 (\$49,440 salary + \$15,129 benefits + \$9,650 travel, training, computer supplies, telephone supplies, office space, and motor vehicle expenses).
- The total recurring increase in state expenditures is estimated to be \$224,219 (\$74,219 + \$150,000).
- According to TDEC, the Policy Analyst position and consulting firm costs will be under the Division of Water Resources which will receive a 58 percent funding ratio for the position and consulting services from the state Environmental Protection Fund (EPF); as a result, the recurring increase in state expenditures from the state EPF is estimated to be \$130,047 (\$224,219 x 58.0%) and the recurring increase in state expenditures from the General Fund is estimated to be \$94,172 (\$224,219 x 42.0%).
- To the extent that local governments are required to collect and provide NPDES data to TDEC consultants, there would be a mandatory increase in local expenditures. The extent of any such expenditure is dependent upon several unknown factors such as the number of local entities affected in any given year and the extent of time and resources required.
- It is assumed that the General Assembly will only review those permits TDEC has determined should be issued.
- It is further assumed that all permits will receive a final decision within the timeframe established in the regulations.

- The number of permits issued each year will not be significantly impacted by the proposed legislation.

**Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink that reads "Krista M. Lee" followed by the letters "RNC" in a smaller, lighter script.

Krista M. Lee, Executive Director

/tdb